

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201502243	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/23/2015 6:08 PM	Location of Incident: Outside the Wendy's restaurant located at 155-33 Jamaica Avenue	Precinct: 103	18 Mo. SOL 9/23/2016	EO SOL 9/23/2016	
Date/Time CV Reported Thu, 03/26/2015 4:18 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/26/2015 4:18 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM William Zirk	14984	956350	103 PCT
2. An officer			103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM William Zirk	Abuse: PO William Zirk stopped § 87(2)(b) [REDACTED]	[REDACTED]
B. An officer	Abuse: An officer stopped § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On March 26, 2015, the CCRB received the complaint of § 87(2)(b) who called the Intake line on behalf of her son, § 87(2)(b) did not witness the incident. On April 2, 2015, § 87(2)(b) provided an in-person statement alleging the following (Encl. 5A-B):

On March 23, 2015, around 4:30PM, § 87(2)(b) accompanied his friend to the Wendy's fast-food restaurant located at 155-33 Jamaica Avenue in Queens. He did not intend to purchase any food, preferring to wait for his friend to do so while he charged his mobile phone in a wall outlet in the restaurant, away from the register. After waiting for a half-hour, § 87(2)(b) saw PO William Zirk and his partner, whose name § 87(2)(b) did not learn, enter the restaurant and order the multitude of teenagers who had gathered out of the restaurant. Few obeyed, but instead of reiterating their command, the officers turned their attention to § 87(2)(b). They asked § 87(2)(b) for his ID and inquired as to what he was doing in the Wendy's. § 87(2)(b) responded that he was waiting for his friend. The officers refused to let § 87(2)(b) leave and told § 87(2)(b) that he had an open warrant (**Allegations A and B**). He was subsequently arrested and charged with trespassing, and was released without a Desk Appearance Ticket because of the active warrant § 87(2)(b)'s arrest report, Encl. 6C-E)

Mediation, Civil and Criminal Histories

§ 87(2)(b), § 87(2)(a) 160.50

Civilian and Officer CCRB Histories

This is both § 87(2)(b)'s and § 87(2)(b)'s first and only CCRB complaint (Encl. 3A). PO Zirk has been a member of the service for one year and this is the only CCRB complaint made against him (Encl. 2A).

NYPD Documents

PO Zirk was § 87(2)(b)'s arresting officer and his pedigree information matches the physical description that § 87(2)(b) provided for one of the two officers who stopped him. Therefore, **Allegation A** is pled against him. According to the ARCS for Tour 2 of March 23, 2015, PO Zirk was assigned to an unspecified post, along with several other officers (Encl. 7A-X). As the investigation was able to partially resolve the allegation without officer interviews or additional documents, PO Zirk's partner is unidentified. Therefore, a stop allegation is also pled against "An officer" from the 103rd Precinct.

Findings and Recommendations

Allegation A - Abuse of Authority: PO William Zirk and an officer stopped § 87(2)(b)
Allegation B – Abuse of Authority: An officer stopped § 87(2)(b)

It is undisputed that PO Zirk and his partner stopped and then arrested § 87(2)(b) inside the Wendy’s fast food restaurant at 155-33 Jamaica Avenue for trespassing § 87(2)(b) s arrest report, Encl. 6C-E).

§ 87(2)(b) admitted to being in the Wendy’s for about a half-hour, waiting for his friend to order food and eat. He was not with his friend eating or ordering food, and he had no intention of doing so. He was alone in the corner of the store, near an outlet away from the register, charging his phone § 87(2)(b) s statement, Encl. 5A0B). The arrest report corroborates this, and the Criminal Court Complaint that was filed by PO Zirk states that, upon arriving at the Wendy’s, he saw § 87(2)(b) charging his phone and that § 87(2)(b) told him that he was waiting for his friend and did not purchase any food items (Encl. 5H-I). § 87(2)(b) s statement also corroborates this observation.

New York State Penal Law 140.05, the statute under which § 87(2)(b) was arrested, states that a person is guilty of trespassing when he or she knowingly enters and remains on a premises unlawfully (Encl. 1A).

§ 87(2)(b), § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date